

# EXHIBT 5

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

LORI ANN MORRIS,

Plaintiff,

vs.

FLORIDA TRANSFORMER, EDWARD  
NEAL THOMPSON, et al.,

Defendants.

CIVIL ACTION NO. 3:05cv962-T

AFFIDAVIT OF EDWARD NEAL THOMPSON

Before me, the undersigned authority, personally appeared Edward Neal Thompson, who is known to me, and who being by me first duly sworn, deposes under oath and states as follows:

"I am Edward Neal Thompson, a named Defendant in the above-referenced case. My current mailing address is P.O. Box 552, Geneva, Alabama 36340. I was 43-years-old at the time of the accident that is the subject of the above-referenced case, and was employed at the time by Florida Transformer, Inc. ("FTI"). At the time of the accident, I had approximately 17 years of experience driving heavy trucks. I am familiar with the allegations in the Plaintiff's Complaint in the above-styled case, alleging that I was negligent or wanton in the operation of my vehicle at the time of the accident, and that such negligence/wantonness proximately caused the death of Vernell Morris, the driver of the other tractor trailer vehicle. I have personal knowledge as to the facts stated herein, unless otherwise noted, and all matters stated herein are true and correct to the best of my knowledge, information and belief.

On 9/2/04 at approximately 1:00 a.m., I departed the FTI facility at Defuniak Springs, Florida to make some deliveries in Georgia. Riding with me was William Tidwell, another FTI driver. We traveled north through Geneva and Enterprise and up to Troy, Alabama, where we hit U.S. Hwy. 231. We then traveled north on Hwy. 231 to Hwy. 271 and stopped at the truck stop there for a restroom break. I also got a cup of coffee at that stop. We then headed up Hwy. 271 and traveled onto I-85,

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toward Atlanta. We were in the right northbound lane as we approached where the accident occurred, traveling around 70 mph.

Although we had passed through a little rain back on Hwy. 231, it was not raining as we approached the location where the accident occurred. However, it must have been overcast because we could not see the stars or the moon overhead. There were no lights along that stretch of I-85. It was a very dark night. As we approached where the accident occurred, all of a sudden I saw in my headlights what appeared to be vehicle tires out across the road, and I said, "Oh my God" and slammed on the brakes. We braced for the collision, and were not able to stop before the front of my tractor hit the underside of the tractor on the other vehicle. I had no time to react, other than the way I did react, and I was unable to avoid this collision.

As soon as our vehicle stopped and we were able to get out of the vehicle, we realized that our lights had been knocked out during the collision and that there was another vehicle approaching from the south. We immediately ran back and started waving our arms and were just able to stop that truck in time to prevent it from hitting our vehicle.

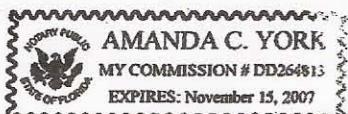
There was nothing wrong with the headlights on our truck or with the brakes on our truck and I did everything I could to avoid this accident. The first thing I saw that told me there was an object blocking both lanes of traffic ahead of me was some tires, and then the underside of the overturned tractor trailer. I never saw any reflector lights or tape, or any headlights, taillights or other lights from the overturned tractor trailer. From my view of the overturned tractor trailer after the accident, it was apparent that any reflectors or reflector tape would have been either against the pavement on the driver's side or facing the sky on the passenger side or facing the median on the rear end of the tractor and trailer. Any headlights would have been shining off the highway to the right, and any taillights would have been shining to the rear and into the median. If either the headlights or any taillights were still functioning, as we approached, they were not visible to me. The first thing that I saw that indicated there was an overturned vehicle was when my headlights picked up the tires and I slammed on the brakes just as quickly as I could at that point. I had not seen Morris' vehicle before that point, and only learned afterwards that it had been down in the median before overturning.

I do not know of any way that I could have avoided this accident under the circumstances."

Edward Neal Thompson  
EDWARD NEAL THOMPSON

STATE OF Florida  
COUNTY OF Walton

Sworn to and subscribed before me this the 5 day of June, 2006.



Amanda C. York  
Notary Public

Commission Expires: 11-15-07